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MONTANA LEGISLATIVE HISTORY

Chapter _____ SB 2001

Bill H 544 S _____ Original bill & history ✓ C

H. Committee on Trans			S. Committee on Bus & Labor		
Hearing Date(s)	2/16	___C	Hearing Date(s)	3/21	___C
		___C			___C
		___C			___C
		___C			___C
Date Out	3/3	___C	out	N/A	"died in process"

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

Senate floor 4/9 & 4/10

Bill Draft Number: LC1012
Bill Type - Number: HB 544
Short Title: Uninsured motorist identification data base
Primary Sponsor: Roger Somerville

Bill Actions - Current Bill Progress: Probably Dead

Bill Action Count: 39

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
(S) Died in Process	04/26/2001			
(S) Taken from 2nd Reading; Rereferred to Committee	04/10/2001	34	13	(S) Business and Labor
(S) Scheduled for 2nd Reading	04/10/2001			
(S) Taken from Committee; Placed on 2nd Reading	04/09/2001	34	15	(S) Business and Labor
(S) Tabled in Committee	03/22/2001			(S) Business and Labor
(S) Hearing	03/21/2001			(S) Business and Labor
(S) Referred to Committee	03/12/2001			(S) Business and Labor
(S) First Reading	03/12/2001			
(H) Transmitted to Senate	03/10/2001			
(H) 3rd Reading Passed	03/10/2001	72	28	
(H) Scheduled for 3rd Reading	03/10/2001			
(H) 2nd Reading Passed	03/09/2001	71	29	
(H) Scheduled for 2nd Reading	03/09/2001			
(H) Revised Fiscal Note Received	03/07/2001			
(C) Sent to Printing	03/05/2001			
(H) Committee Report--Bill Passed as Amended	03/03/2001			(H) Transportation
(H) Revised Fiscal Note Requested	03/03/2001			
(H) Committee Executive Action--Bill Passed as Amended	03/03/2001	12	6	(H) Transportation
(H) Fiscal Note Printed	02/17/2001			
(H) Hearing	02/16/2001			(H) Transportation
(H) Fiscal Note Received	02/16/2001			
(C) Introduced Bill Text Available Electronically	02/10/2001			
(C) Bill Draft Text Available Electronically	02/10/2001			
(H) Fiscal Note Requested	02/10/2001			
(H) Referred to Committee	02/10/2001			(H) Transportation

(H) First Reading	02/10/2001
(H) Introduced	02/10/2001
(C) Draft Delivered to Requester	02/08/2001
(C) Draft Ready for Delivery	02/08/2001
(C) Draft in Assembly/Executive Director Review	02/07/2001
(C) Draft in Final Drafter Review	02/07/2001
(C) Draft in Input/Proofing	02/06/2001
(C) Draft to Drafter - Edit Review [CMD]	02/06/2001
(C) Draft in Edit	02/05/2001
(C) Draft in Legal Review	02/05/2001
(C) Draft to Requester for Review	02/01/2001
(C) Draft to Requester for Review	01/30/2001
(C) Draft On Hold	12/12/2000
(C) Draft Request Received	12/05/2000

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name	Mi
Requester	Lawson	Bob	
Drafter	MacMaster	John	
Primary Sponsor	Somerville	Roger	

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Appropriations (see also: State Finance)	Appropriation	Simple	APP
Insurance		Simple	INS
Motor Vehicles (see also: Taxation--Trans; Traffic Regulations; Transportation)		Simple	MTRV

Additional Bill Information

Probable Fiscal Note: Yes
Preintroduction Required: N
Session Law Ch. Number:
DEADLINE

Category: Appropriation Bills
Transmittal Date: 03/24/2001
Return (with 2nd house amendments) Date: 04/09/2001

Section Effective Dates

No Records returned

HOUSE BILL NO. 544

INTRODUCED BY R. SOMERVILLE

A BILL FOR AN ACT ENTITLED: "AN ACT STRENGTHENING ENFORCEMENT OF MANDATORY MOTOR VEHICLE LIABILITY INSURANCE LAWS; CREATING THE UNINSURED MOTORIST IDENTIFICATION PROGRAM AND PROVIDING FOR A DATABASE; REQUIRING INSURERS TO PROVIDE CERTAIN INFORMATION TO THE DEPARTMENT OF JUSTICE'S DESIGNATED AGENT; PROVIDING FOR AN UNINSURED MOTORIST IDENTIFICATION FEE TO FUND THE PROGRAM; PROVIDING GUIDELINES FOR USE OF DISCLOSED INFORMATION AND PENALTIES FOR IMPROPER DISCLOSURE; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502, 33-19-104, AND 33-19-306, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 10] may be cited as the "Montana Uninsured Motorist Compliance Act".

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 10], the following definitions apply:

(1) "Account" means the uninsured motorist identification restricted account created in [section 10].

(2) "Commissioner" means the commissioner of insurance.

(3) "Database" means the uninsured motorist identification database created in [section 3].

(4) "Designated agent" means the party with whom the department contracts under [section 3].

(5) "Department" means the department of justice.

(6) "Program" means the uninsured motorist identification program created in [section 3].

NEW SECTION. **Section 3. Creation of program and database -- designated**

agent to administer program -- duties of designated agent. (1) There is an uninsured motorist identification program. The purpose of the program is to establish an uninsured motorist identification database to verify a motor vehicle owner's compliance with mandatory liability insurance requirements under Title 61, chapter 6, part 3, and to assist in reducing the number of uninsured motor vehicles on the highways of the state.

(2) The program must be administered by the department with the assistance of a designated agent.

(3) The department shall contract, in accordance with Title 18, chapter 4, with a designated agent to establish and maintain a database for the purposes of [sections 1 through 10].

(4) The designated agent shall develop and maintain a computer database from the information provided by insurers under [section 5] and by the department under [section 4]. The database must be developed and maintained in accordance with guidelines established by the department and designed to allow state and local law enforcement agencies to efficiently access the database.

(5) The designated agent shall, at least monthly:

(a) update the database with the motor vehicle insurance information provided by insurers; and

(b) compare all current motor vehicle registrations against the database.

(6) The designated agent shall archive computer data files at least semiannually for auditing purposes. The designated agent shall provide the department and the legislative auditor access to any records necessary to audit the program and verify billings made by the designated agency and to verify the accuracy of the designated agent's matching of vehicle registration with insurance data.

NEW SECTION. **Section 4. Department's duties.** (1) The department shall provide the designated agent with a record of all current motor vehicle registrations and the name, date of birth, address, and driver's license number of all persons on the driver's license database.

(2) The department shall adopt rules to implement [sections 1 through 10], including rules for the use of the database.

NEW SECTION. **Section 5. Insurers' duties -- exemption from liability for negligence.** (1) On or before the 7th day of each calendar month, each insurer that issues a policy that includes motor vehicle liability coverage, uninsured motorist coverage, underinsured motorist coverage, or personal injury coverage under Title 33, chapter 23, part 2, shall provide to the department's designated agent a record of each motor vehicle insurance policy that was issued by the insurer and was in effect during the previous month.

(2) The record must include:

(a) the name, date of birth, and driver's license number of each insured owner or operator and the address of the named insured;

(b) the make, year, and vehicle identification number of each insured vehicle; and

(c) the policy number, effective date, and expiration date of each policy.

(3) Each insurer shall provide the information in an electronic or other format acceptable to the department's designated agent.

(4) The commissioner may assess against an insurer a civil penalty of up to $250 per day for each day that an insurer fails to comply with this section. An insurer is entitled to notice and a hearing before the penalty is assessed, and if the insurer shows that the failure to comply with this section was inadvertent, accidental, or the result of excusable neglect, the commissioner may not impose the civil penalty.

(5) Except for gross negligence, an insurer is not liable in negligence for any damages resulting from providing the designated agent with information as required by this section.

NEW SECTION. **Section 6. Uninsured motorist identification fee.** (1) Except as provided in subsection (2), an uninsured motorist identification fee of $1 must be assessed on the registration and reregistration of each motor vehicle subject

to registration or reregistration under Title 61, chapter 3.

(2) A motor vehicle that is owned or leased by the United States or a state, county, or city is exempt from the fee assessed by this section.

(3) The uninsured motorist identification fee must be collected by the county treasurer and forwarded to the state treasurer for deposit in the uninsured motorist identification restricted account established in [section 10].

NEW SECTION. **Section 7. Uninsured vehicles -- providing proof of insurance.** (1) If the comparison made under [section 3] shows that a motor vehicle is not insured for 3 consecutive months, the designated agent shall provide notice to the owner of the motor vehicle that the owner has 15 days to provide:

(a) proof of liability insurance, a certificate of self-insurance, or an indemnity bond as required by 61-6-301; or

(b) proof of exemption from the liability insurance requirement under 61-6-303.

(2) If the owner of a motor vehicle fails to provide satisfactory proof as required by subsection (1), the designated agent shall:

(a) note the owner's failure to respond to the first notice and the date of the first notice in the database; and

(b) provide a second notice to the owner of the motor vehicle advising that if the proof required by subsection (1) is not provided by the owner within 10 days, the vehicle's registration will be subject to suspension by the department.

(3) If the owner of a motor vehicle fails to provide the proof required by subsection (1) within the time specified in the second notice, the designated agent shall:

(a) note the owner's failure to respond to the second notice and the date of the second notice in the database; and

(b) report the owner's noncompliance and relevant vehicle information to the department for suspension action under [section 8].

NEW SECTION. **Section 8. Suspension of vehicle registration.** (1) Upon

receipt of notice from the designated agent that the owner of a vehicle has failed to provide satisfactory proof of liability insurance or exemption after two notices have been given, the department shall:

(a) suspend the registration of the vehicle for which the owner failed to provide proof; and

(b) direct the designated agent to send notice of the suspension to the owner.

(2) A criminal penalty may also be imposed under Title 61, chapter 6, part 3.

NEW SECTION. **Section 9. Use and confidentiality of database information -- exemption from liability for negligence.** (1) Information in the database established under [section 3] provided by a person to the designated agent is considered to be the property of the person providing the information. The provisions of Title 2, chapter 6, parts 1 and 2, do not apply to the information, and the information may not be disclosed by the designated agent or the department, except as provided in subsection (2).

(2) For the purposes of investigating, litigating, or enforcing the mandatory vehicle liability insurance requirements of Title 61, chapter 6, part 3, the designated agent shall:

(a) verify a vehicle's insurance status to law enforcement agencies, courts, and the department;

(b) issue to any state or local government agency or court a certificate documenting the insurance status, according to the database, of a specific individual or motor vehicle for the time period designated by the government agency or court; and

(c) disclose the insurance status of a vehicle and personal information identifying the vehicle owner to a peace officer acting in the officer's official capacity to enforce vehicle registration, insurance, or traffic control laws.

(3) A person who knowingly releases or discloses information from the database for a purpose or to a person or entity other than as authorized in

subsection (2) is guilty of a criminal offense and upon conviction may be fined an amount not to exceed $50,000, incarcerated for a period not to exceed 10 years, or both.

NEW SECTION. **Section 10. Uninsured motorist identification restricted account -- statutory appropriation.** (1) There is an uninsured motorist identification restricted account in the state special revenue fund provided for in 17-2-102.

(2) Fees received by the state treasurer pursuant to [section 6] must be deposited in the account.

(3) For the period beginning January 1, 2002, and ending June 30, 2003, there is statutorily appropriated, as provided in 17-7-502, from the uninsured motorist identification restricted account to the department of justice the amount of $1,325,000 to be used to administer [sections 1 through 10]. For fiscal year beginning July 1, 2003, and for each fiscal year thereafter, there is statutorily appropriated, as provided in 17-7-502, from the uninsured motorist identification restricted account to the department of justice the amount of $850,000 to be used to administer [sections 1 through 10].

Section 11. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-31-702; 15-34-115; 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-406; 16-1-411; 17-3-106; 17-3-212; 17-3-222; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-709; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-26-1503; 22-3-1004; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; [section 10]; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-1-505; 80-2-222; 80-4-416; 80-11-518; 81-5-111; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; and pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710 terminates June 30, 2005.)"

Section 12. Section 33-19-104, MCA, is amended to read:

"**33-19-104. Definitions.** As used in this chapter, the following definitions

apply:

(1) (a) "Adverse underwriting decision" means any of the following actions with respect to insurance transactions involving insurance coverage that are individually underwritten:

(i) a declination of insurance coverage;

(ii) a termination of insurance coverage;

(iii) failure of an insurance producer to apply for insurance coverage with a specific insurance institution that the insurance producer represents and that is requested by an applicant;

(iv) in the case of a property or casualty insurance coverage:

(A) placement by an insurance institution or insurance producer of a risk with a residual market mechanism, an unauthorized insurer, or an insurance institution that specializes in substandard risks; or

(B) the charging of a higher rate on the basis of information that differs from that which the applicant or policyholder furnished;

(v) in the case of a life, health, or disability insurance coverage, an offer to insure at higher than standard rates.

(b) The following actions are not adverse underwriting decisions, but the insurance institution or insurance producer responsible for their occurrence shall nevertheless provide the applicant or policyholder with the specific reason or reasons for their occurrence:

(i) the termination of an individual policy form on a class or statewide basis;

(ii) a declination of insurance coverage solely because the coverage is not available on a class or statewide basis; or

(iii) the rescission of a policy.

(2) "Affiliate" or "affiliated" means a person who directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another person.

(3) "Applicant" means a person who seeks to contract for insurance coverage other than a person seeking group insurance that is not individually underwritten.

(4) "Consumer report" means any written, oral, or other communication of information bearing on a natural person's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living that is used or expected to be used in connection with an insurance transaction.

(5) "Consumer reporting agency" means a person who:

(a) regularly engages, in whole or in part, in the practice of assembling or preparing consumer reports for a monetary fee;

(b) obtains information primarily from sources other than insurance institutions; and

(c) furnishes consumer reports to other persons.

(6) "Control", including the terms "controlled by" or "under common control with", means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person.

(7) "Declination of insurance coverage" means a denial, in whole or in part, by an insurance institution or insurance producer of requested insurance coverage.

(8) "Individual" means a natural person who:

(a) regarding property or casualty insurance, is a past, present, or proposed named insured or certificate holder;

(b) regarding life, health, or disability insurance, is a past, present, or proposed principal insured or certificate holder;

(c) is a past, present, or proposed policyowner;

(d) is a past or present applicant;

(e) is a past or present claimant; or

(f) derived, derives, or is proposed to derive insurance coverage under an insurance policy or certificate subject to this chapter.

(9) "Institutional source" means a person or governmental entity that

provides information about an individual to an insurance producer, insurance institution, or insurance-support organization, other than:

(a) an insurance producer;

(b) the individual who is the subject of the information; or

(c) a natural person acting in a personal capacity rather than a business or professional capacity.

(10) "Insurance function" means claims administration, claims adjustment and management, fraud investigation, underwriting, loss control, ratemaking functions, reinsurance, risk management, case management, disease management, quality assessment, quality improvement, provider credentialing verification, reporting under [section 5], utilization review, peer review activities, grievance procedures, and internal administration of compliance and policyholder service functions.

(11) (a) "Insurance institution" means a corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd's insurer, fraternal benefit society, or other person engaged in the business of insurance, including health maintenance organizations, and health service corporations as defined in 33-30-101.

(b) Insurance institution does not include insurance producers or insurance-support organizations.

(12) "Insurance producer" means an insurance producer as defined in 33-17-102 and 33-30-311.

(13) (a) "Insurance-support organization" means a person who assembles or collects information about natural persons for the purpose of providing the information to an insurance institution or insurance producer for insurance transactions, including:

(i) the furnishing of consumer reports or investigative consumer reports to an insurance institution or insurance producer for use in connection with an insurance transaction; or

(ii) the collection of personal information from insurance institutions, insurance producers, or other insurance-support organizations for the purpose of

detecting or preventing fraud, material misrepresentation, or material nondisclosure in connection with insurance underwriting or insurance claim activity.

(b) The following persons are not insurance-support organizations for purposes of this chapter: insurance producers, government institutions, medical care institutions, and medical professionals.

(14) "Insurance transaction" means a transaction involving insurance primarily for personal, family, or household needs, rather than for business or professional needs, that entails:

(a) the determination of an individual's eligibility for an insurance coverage, benefit, or payment; or

(b) the servicing of an insurance application, policy, contract, or certificate.

(15) "Investigative consumer report" means a consumer report or portion of a consumer report containing information about a natural person's character, general reputation, personal characteristics, or mode of living obtained through personal interviews with the person's neighbors, friends, associates, acquaintances, or others who may have knowledge concerning this type of information.

(16) "Medical care institution" means a facility or institution that is licensed to provide health care services to natural persons, including but not limited to health maintenance organizations, home health agencies, hospitals, medical clinics, public health agencies, rehabilitation agencies, and skilled nursing facilities.

(17) "Medical professional" means a person who is licensed or certified to provide health care services to natural persons, including but not limited to a chiropractor, clinical dietitian, clinical psychologist, dentist, nurse, occupational therapist, optometrist, pharmacist, physical therapist, physician, podiatrist, psychiatric social worker, or speech-language pathologist.

(18) "Medical record information" means personal information that:

(a) relates to an individual's physical or mental condition, medical history, medical claims history, or medical treatment; and

(b) is obtained from a medical professional or medical care institution, from the individual, or from the individual's spouse, parent, or legal guardian.

(19) "Person" means a natural person, corporation, association, partnership, or other legal entity.

(20) "Personal information" means any individually identifiable information gathered in connection with an insurance transaction from which judgments can be made about an individual's character, habits, avocations, finances, occupation, general reputation, credit, health, or any other personal characteristics. Personal information includes an individual's name and address and medical record information but does not include privileged information.

(21) "Policyholder" means a person who:

(a) in the case of individual property or casualty insurance, is a present named insured;

(b) in the case of individual life, health, or disability insurance, is a present policyowner; or

(c) in the case of group insurance that is individually underwritten, is a present group certificate holder.

(22) "Pretext interview" means an interview during which a person, in an attempt to obtain information about a natural person, performs one or more of the following acts:

(a) pretends to be someone else;

(b) pretends to represent a person not in fact being represented;

(c) misrepresents the true purpose of the interview; or

(d) refuses to provide identification upon request.

(23) "Privileged information" means any individually identifiable information that:

(a) relates to a civil or criminal proceeding involving an individual; and

(b) is collected in connection with or in reasonable anticipation of a claim for insurance benefits or civil or criminal proceeding involving an individual. Information otherwise meeting the requirements of privileged information under this subsection is considered personal information under this

chapter if it is disclosed in violation of 33-19-306.

(24) "Residual market mechanism" means an association, organization, or other entity defined or described in 61-6-144.

(25) (a) "Separate, written authorization" means an individual's written authorization that is:

(i) given to the recipient of personal or privileged information that has been disclosed pursuant to 33-19-306(3) through (17); and

(ii) separate from any written authorization obtained by the disclosing insurance institution, insurance producer, or insurance-support organization pursuant to 33-19-204.

(b) The term does not include the insurance institution, insurance producer, or insurance-support organization that discloses personal or privileged information pursuant to 33-19-306(3) through (17).

(26) "Termination of insurance coverage" or "termination of an insurance policy" means either a cancellation or nonrenewal of an insurance policy, in whole or in part, for any reason other than the failure to pay a premium as required by the policy.

(27) "Unauthorized insurer" means an insurance institution that has not been granted a certificate of authority by the commissioner to transact the business of insurance in this state."

Section 13. Section 33-19-306, MCA, is amended to read:

"**33-19-306. Disclosure limitations and conditions.** (1) Except as provided in this section, an insurance institution, insurance producer, or insurance-support organization may not disclose any personal or privileged information about an individual collected or received in connection with an insurance transaction.

(2) Disclosure may be made with the written authorization of the individual but:

(a) if the authorization is submitted by another insurance institution, insurance producer, or insurance-support organization, the authorization must meet

the requirements of 33-19-204; or

(b) if the authorization is submitted by a person other than an insurance institution, insurance producer, or insurance-support organization, the authorization must be:

(i) dated;

(ii) signed by the individual;

(iii) sufficient to identify the nature of the information to be disclosed and the person to whom the information is to be disclosed; and

(iv) obtained 1 year or less prior to the date a disclosure is sought pursuant to this subsection.

(3) Disclosure may be made to a person other than an insurance institution, insurance producer, or insurance-support organization, provided that the disclosure is limited to that which is reasonably necessary:

(a) to enable the person to perform an insurance function for the disclosing insurance institution, insurance producer, or insurance-support organization and the person agrees not to further disclose the information without the individual's separate, written authorization; or

(b) to enable the person that has agreed not to further disclose the information without the individual's separate, written authorization to provide information to the disclosing insurance institution, insurance producer, or insurance-support organization for the purpose of:

(i) determining an individual's eligibility for an insurance benefit or payment; or

(ii) detecting or preventing criminal activity, fraud, material misrepresentation, or material nondisclosure in connection with an insurance transaction.

(4) Disclosure may be made to an insurance institution, insurance producer, insurance-support organization, or self-insurer that has agreed not to further disclose the information without the individual's separate, written authorization if the information disclosed is limited to that which is reasonably necessary:

(a) to detect or prevent criminal activity, fraud, material

misrepresentation, or material nondisclosure in connection with insurance transactions; or

(b) for either the disclosing or receiving insurance institution, insurance producer, or insurance-support organization to perform its insurance function in connection with an insurance transaction involving the individual.

(5) Disclosure may be made to a medical care institution or medical professional of that information reasonably necessary for the following purposes:

(a) verifying insurance coverage or benefits;

(b) informing an individual of a medical problem of which the individual may not be aware; or

(c) conducting an operations or services audit.

(6) Disclosure may be made to an insurance regulatory authority that agrees not to further disclose the information without the individual's separate, written authorization.

(7) Disclosure may be made to a law enforcement or other government authority:

(a) to protect the interests of the insurance institution, insurance producer, or insurance-support organization in preventing or prosecuting the perpetration of fraud upon it; or

(b) if the insurance institution, insurance producer, or insurance-support organization reasonably believes that illegal activities have been conducted by the individual.

(8) Disclosure that is limited to that which is reasonably necessary may be made as otherwise permitted or required by law.

(9) Disclosure that is limited to that which is reasonably necessary may be made in response to a facially valid administrative or judicial order, including a search warrant or subpoena.

(10) (a) Except as provided in subsection (10)(b), disclosure that is limited to that which is reasonably necessary may be made for the purpose of conducting actuarial or research studies, provided that:

(i) no individual is identified in any actuarial or research report;

(ii) materials allowing the individual to be identified are returned or destroyed as soon as they are no longer needed; and

(iii) the actuarial or research organization agrees not to further disclose the information without the individual's separate, written authorization.

(b) Disclosure of information may be made for:

(i) health research that is subject to the approval of an institutional review board and the requirements of federal law and regulations governing biomedical research; or

(ii) epidemiological or drug therapy outcomes research that requires information that has been made anonymous to protect the identity of the patient through coding or encryption.

(11) Disclosure may be made to a party or a representative of a party to a proposed or consummated sale, transfer, merger, or consolidation of all or part of the business of the insurance institution, insurance producer, or insurance-support organization, if:

(a) prior to the consummation of the sale, transfer, merger, or consolidation only information is disclosed that is reasonably necessary to enable the recipient to make business decisions about the purchase, transfer, merger, or consolidation; and

(b) the recipient agrees not to further disclose the information without the individual's separate, written authorization.

(12) (a) Disclosure that is limited to that which is reasonably necessary may be made to any affiliate whose only use of the information will be in connection with an audit of the insurance institution or insurance producer if the affiliate agrees not to disclose the information for any other purpose or to unaffiliated persons.

(b) Disclosure of personal information that is limited to an individual's name, age, sex, family composition, address, telephone number, occupation, and avocations may be made to any affiliate whose only use of the information is in connection with the marketing of insurance or financial products if the affiliate agrees not to disclose the information for any other purpose or to unaffiliated

persons.

(13) Except for medical record information, disclosure may be made by a consumer reporting agency to a person other than an insurance institution or insurance producer.

(14) Disclosure may be made to a group policyholder for the purpose of reporting claims experience or conducting an audit of the insurance institution's or insurance producer's operations or services if the information disclosed is reasonably necessary for the group policyholder to conduct the review or audit and the group policyholder agrees not to further disclose the information without the individual's separate, written authorization.

(15) Disclosure that is limited to that which is reasonably necessary may be made to a professional peer review organization for the purpose of reviewing the service or conduct of a medical care institution or medical professional if the professional peer review organization agrees not to further disclose the information without the individual's separate, written authorization.

(16) Disclosure that is limited to that which is reasonably necessary may be made to a governmental authority as required by federal or state law or for the purpose of determining the individual's eligibility for health benefits for which the governmental authority may be liable.

(17) Disclosure that is limited to that which is reasonably necessary may be made to a certificate holder or policyholder for the purpose of providing information regarding the status of an insurance transaction.

(18) The commissioner may, after notice and hearing, adopt rules to carry out the provisions of this section. The rules may not define the recordkeeping requirements regarding authorized disclosures of personal or privileged information pursuant to subsections (2) through (17) but may define the requirements of any agreement obtained by an insurance institution, insurance producer, or insurance-support organization regarding disclosures of personal or privileged information.

(19) Disclosure may be made as provided in [section 5]."

NEW SECTION. **Section 14. Codification instruction.** [Sections 1 through 10] are intended to be codified as an integral part of Title 61, chapter 6, and the provisions of Title 61 apply to [sections 1 through 10].

NEW SECTION. **Section 15. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective January 1, 2002.

(2) [Sections 3(3) and 4(2) and this section] are effective on passage and approval.

NEW SECTION. **Section 16. Termination.** [This act] terminates January 1, 2006.

- END -

FISCAL NOTE

Bill #: HB0544 **Title:** Uninsured motorist identification data base

Primary Sponsor: Roger Somerville **Status:** As Introduced

Sponsor signature Date Chuck Swysgood, Budget Director 2/16/01 Date

Fiscal Summary

	FY2002 Difference	FY2003 Difference
Expenditures:		
State Special Revenue	0	1,325,000
Revenue:		
State Special Revenue	682,103	1,258,792
Net Impact on General Fund Balance:	**$0**	**$0**

Yes	No		Yes	No	
	X	Significant Local Gov. Impact	X		Technical Concerns
	X	Included in the Executive Budget		X	Significant Long-Term Impacts
	X	Dedicated Revenue Form Attached		X	Family Impact Form Attached

Fiscal Analysis

ASSUMPTIONS:

1. Section 10 of the bill contains a statutory appropriation of $1,325,000 for January 1, 2002 through June 30, 2003. The statutory appropriation for each fiscal year thereafter is for $850,000. The statutory appropriation is in the uninsured motorist identification restricted account (state special revenue).

HB 544

2. Based on the registrations and re-registrations processed in FY 2000 for motor vehicles subject to Title 61, Chapter 3 and assuming the historical growth of 1.5% remains constant, it is estimated that the number of vehicle registrations processed under Title 61, Chapter 3, MCA, would be:

	FY 2000 (Actual)	FY 2001 (Estimated)	FY 2002 (Estimated)	FY 2003 (Estimated)
Jul.-Dec. (45%)	541,712	549,838	558,086	566,457
Jan-Jun. (55%)	662,092	672,023	682,103	692,335
Total	1,203,804	1,221,861	1,240,189	1,258,792

3. Effective January 1, 2002, this bill assesses a $1.00 uninsured motorist identification fee on the registration and reregistration of each motor vehicle subject to registration or reregistration under Title 61, Chapter 3, MCA. Therefore, revenues for this state special revenue account are projected to be $682,103 in FY 2002 and $1,258,792 in FY 2003 for a total of $1,940,895 for the period January 1, 2002 through June 30, 2003.
4. Mandatory liability insurance protection is required for each motor vehicle as defined in 61-1-102, MCA, that is registered and operated in Montana. In CY 2000 approximately 848,133 vehicles required to carry mandatory liability insurance were registered in Montana. Assuming the historical growth of 1.5% remains constant, it is projected that approximately 860,855 motor vehicles would be registered in 2001; 873,768 in 2002; and 886,875 in 2003.
5. A contract would be established with a private entity ("agent") through a request for proposal process in compliance with state policies. Based upon information available, costs to contract with an agent to establish and maintain an uninsured motorist database, track notices from insurance carriers of cancellations and non-renewals, to issue the notification letters, and provide information to update the motor vehicle system would be up to $1.00 on each motor vehicle required to show proof of insurance upon registration or an estimated cost of $480,572 in FY 2002 (873,768 vehicles estimated in FY 2002 x 55% registered January through June 2002 X $1.00/vehicle registered) and $886,875 in FY 2003. The total cost of the contract during the January 2002 through June 2003 period is $1,367,447 ($480,572 FY02 + $886,875 FY03).
6. Costs for the rule making procedures and program management would be absorbed by the division.
7. One-time programming costs to the Department of Justice to account for the fees, provide driver license and motor vehicle registration information to the vendor, and to establish a process to receive suspension /reinstatement data from the vendor are estimated at $32,400 (432 hours x @ $75/hour FY02 only). A combination of DOJ programming staff and private vendors will be necessary to address the current backlog of more than 15,000 hours of programming to comply with existing mandates and the considerable system maintenance that is required. Computer costs to complete the programming are estimated at $8,910 in FY 2002 only (54 days @ $165/day). Total FY 2002 costs for programming are estimated to be $41,310 ($32,400 + $8,910).

FISCAL IMPACT:

	FY2002 Difference	FY2003 Difference
Expenditures:		
Operating Expenses	*$521,882	*$886,875
Funding:		
State Special Revenue (02)	*$521,882	*$886,875

*Based on the foregoing assumptions the total estimated expenditures for the January 1, 2002 through June 30, 2003, period are $1,408,757; however, expenditures are limited by the statutory appropriation of $1,325,000.

Revenues:		
State Special Revenue (02)	$682,103	$1,258,792
Total State Special Revenue (02) for Biennium		$1,940,895
Net Impact to Fund Balance (Revenue minus Expenditure):		
State Special Revenue (02) (Biennium)		$615,895
($1,940,895 - $1,325,000 statutory approp. = $615,895)		

TECHNICAL NOTES:

1. The suspension of the motor vehicle registration would be electronic only. There is no provision for physically obtaining the registration receipt from a vehicle owner not in compliance.

FISCAL NOTE

Bill #: HB0544 **Title:** Uninsured motorist identification data base

Primary Sponsor: Roger Somerville **Status:** Second Reading

Sponsor signature Date Chuck Swysgood, Budget Director Date

Fiscal Summary

	FY2002 Difference	FY2003 Difference
Expenditures:		
State Special Revenue	0	1,325,000
Revenue:		
State Special Revenue	682,103	1,258,792
Net Impact on General Fund Balance:	**$0**	**$0**

Yes	No		Yes	No	
	X	Significant Local Gov. Impact	X		Technical Concerns
	X	Included in the Executive Budget		X	Significant Long-Term Impacts
	X	Dedicated Revenue Form Attached		X	Family Impact Form Attached

Fiscal Analysis

ASSUMPTIONS:

1. Section 10 of the bill contains a statutory appropriation of $1,325,000 for January 1, 2002 through June 30, 2003. The statutory appropriation for each fiscal year thereafter is for $850,000. The statutory appropriation is in the uninsured motorist identification restricted account (state special revenue).

2. Based on the registrations and re-registrations processed in FY 2000 for motor vehicles subject to Title 61, Chapter 3 and assuming the historical growth of 1.5% remains constant, it is estimated that the number of vehicle registrations processed under Title 61, Chapter 3, MCA, would be:

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Jan-Jun. (55%)	662,092	672,023	682,103	692,335
Total	1,203,804	1,221,861	1,240,189	1,258,792

The numbers of vehicle registrations in the table above were not revised by the amendment to Section 4 of the bill because the amended registrations were not included in the original table.

3. Effective January 1, 2002, this bill assesses a $1.00 uninsured motorist identification fee on the registration and reregistration of each motor vehicle subject to registration or reregistration under Title 61, Chapter 3, MCA. Therefore, revenues for this state special revenue account are projected to be $682,103 in FY 2002 and $1,258,792 in FY 2003 for a total of $1,940,895 for the period January 1, 2002 through June 30, 2003.
4. Mandatory liability insurance protection is required for each motor vehicle as defined in 61-1-102, MCA, that is registered and operated in Montana. In CY 2000 approximately 848,133 vehicles required to carry mandatory liability insurance were registered in Montana. Assuming the historical growth of 1.5% remains constant, it is projected that approximately 860,855 motor vehicles would be registered in 2001; 873,768 in 2002; and 886,875 in 2003.
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7. One-time programming costs to the Department of Justice to account for the fees, provide driver license and motor vehicle registration information to the vendor, and to establish a process to receive suspension /reinstatement data from the vendor are estimated at $32,400 (432 hours x @ $75/hour FY02 only). A combination of DOJ programming staff and private vendors will be necessary to address the current backlog of more than 15,000 hours of programming to comply with existing mandates and the considerable system maintenance that is required. Computer costs to complete the programming are estimated at $8,910 in FY 2002 only (54 days @ $165/day). Total FY 2002 costs for programming are estimated to be $41,310 ($32,400 + $8,910).

FISCAL IMPACT:

	FY2002 Difference	FY2003 Difference
Expenditures:		
Operating Expenses	*$521,882	*$886,875
Funding:		
State Special Revenue (02)	*$521,882	*$886,875

*Based on the foregoing assumptions the total estimated expenditures for the January 1, 2002 through June 30, 2003, period are $1,408,757; however, expenditures are limited by the statutory appropriation of $1,325,000.

Revenues:		
State Special Revenue (02)	$682,103	$1,258,792
Total State Special Revenue (02) for Biennium		$1,940,895

Net Impact to Fund Balance (Revenue minus Expenditure):
State Special Revenue (02) (Biennium) $615,895
($1,940,895 - $1,325,000 statutory approp. = $615,895)

TECHNICAL NOTES:

1. The suspension of the motor vehicle registration would be electronic only. There is no provision for physically obtaining the registration receipt from a vehicle owner not in compliance.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON TRANSPORTATION

Call to Order: By **CHAIRMAN ROGER SOMERVILLE**, on February 16, 2001 at 3:00 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Roger Somerville, Chairman (R)
Rep. Sylvia Bookout-Reinicke, Vice Chairman (R)
Rep. Carol C. Juneau, Vice Chairman (D)
Rep. Darrel Adams (R)
Rep. Joe Balyeat (R)
Rep. Debby Barrett (R)
Rep. Ronald Devlin (R)
Rep. Dave Gallik (D)
Rep. Steven Gallus (D)
Rep. George Golie (D)
Rep. Donald L. Hedges (R)
Rep. Jim Keane (D)
Rep. Gary Matthews (D)
Rep. William Price (R)
Rep. Allen Rome (R)
Rep. Frank Smith (D)
Rep. Donald Steinbeisser (R)
Rep. Karl Waitschies (R)

Members Excused: None.

Members Absent: None.

Staff Present: Donna Huffman, Committee Secretary
Leanne Kurtz, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 512, HB 529, HB 544 02/16/01.
Executive Action: HB 506, HB 524.

EXECUTIVE ACTION ON HB 506

{Tape : 1; Side : A; Approx. Time Counter : 4}

Motion: **REP. BOOKOUT-REINICKE** moved that **HB 506 DO PASS.**

Discussion:

Rep. Bookout-Reinicke moved amendment for HB 503, on Page 1, Line 29, Strike "5 years", Insert "1 year". **EXHIBIT(trh39a01).**

Motion/Vote: **REP. BOOKOUT-REINICKE** moved that **AMENDMENT FOR HB 506, #HB050601.ALK DO PASS. Motion carried 18-0.**

Motion/Vote: **REP. HEDGES** moved that **HB 506 DO PASS AS AMENDED. Motion carried 11-7 with Adams, Barrett, Devlin, Hedges, Somerville, Steinbeisser, and Waitschies voting no.**

HEARING ON HB 529

Sponsor: **Rep. Jeff Pattison, HD 95.**

Proponents: **Bob Stephens, Montana Grain Growers Association and Montana Farm Bureau and Montana Stock Growers; Rep. Don Steinbeisser, HD 100; Barry "Spook" Stang, Montana Motor Carriers Association; Rep. Matt McCann, HD 92; Rep. John Musgrove, HD 91.**

Opponents: none.

Informational Witnesses: **Dave Galt, Director of Montana Department of Transportation.**

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 11}

Rep. Pattison said HB 529 does four things. One is to equalize the weight limit and axle limit that a vehicle can carry, cleaning up the confusion of two weight standards, 7%-10%. Second, it modifies the 50 miles a farm vehicle may travel from the harvested field to 100. Third, eliminate the 40-mile per hour limitation on the farm vehicles. Last, clean up of this vehicle code's subsection (4). **EXHIBIT(trh39a02).**

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 17.3}

Bob Stephens said this bill is important to grain hauling and cattle hauling. He said they support HB 529.

Rep. Steinbeisser said he supports this bill, the rate of 7-10% is a good idea.

Barry "Spook" Stang said they support HB 529, with the consistency this will make it a lot better to enforce the laws.

Rep. McCann said he supports this bill and asked to make some adjustments to the bill. He said in the penalty section, you should change the language from "may" to "shall".

Rep. Musgrove said he agrees with what the proponents said. He supports HB 529.

Opponents' Testimony: none.

Informational Witnesses' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 23.6}

Dave Galt said there are two tolerances on this bill. First, page 1, from 7-10%, there is no enforcement on that activity, basically, it is a tolerance from getting a citation and seeing the judge. He said the 100 mile radius and speed limit are tolerances and only allowed on state highways and not allowed on the interstate system. In the last fiscal year, July 1999-June of 2000, the motor carrier services officers issued 1571 $10.00 permits.

Questions from Committee Members and Responses:

Rep. Juneau asked **Brenda Nordlund, Department of Justice**, if young children are allowed to drive these trucks on the highway, carrying these products under these provisions. **Ms. Nordlund** said the age is 15 if they have had drivers' education, if not the age is 16 to drive. She said there is not a special permit for Agriculture in this area, but hardship permits are not issued because of hauling farm products, they are issued because of extraordinary personal circumstances that a family might have.

{Tape : 1; Side : B; Approx. Time Counter : 3.3}

Rep. Keane asked **Mr. Galt** if highway damage increases going from 7% to 10%. **Mr. Galt** said there will be an increase in highway damage, if a truck is overweight between 0-7%, there is a $10 permit to go to the nearest facility to become legal. He said if

over 7%, up to 10,000 pounds, they get a citation and a permit to the nearest facility to become legal.

{Tape : 1; Side : B; Approx. Time Counter : 8}

Chairman Somerville asked **Mr. Galt** what the main reason is for limits on the roads and why there are speed limits on heavy trucks that are on these roads. **Mr. Galt** said to protect the paved road system they limit the speed below the posted speed limit, and that limit is considerably above what a farm truck would go in 20% tolerance. He said when the trucks reach a certain point, the trucks exceed their tire capacity.

Rep. Keane asked **Rep. Pattison** why the increase from 7%-10%. **Rep. Pattison** said this deals with bulk material, and it allows a little extra for farmers to haul as much as they can within the legal limit.

Closing by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 13}

Rep. Pattison said, concerning the road damage, there would be some, but not a lot. He urges a Do Pass on HB 529.

HEARING ON HB 544

Sponsor: **Rep. Roger Somerville, HD 72.**

Proponents: **Dean Roberts, Administrator of Motor Vehicle Division for Department of Justice; Brenda Nordlund, Department of Justice; Senator David Steele, Utah; Jan Van Riper, State Auditors Office; Robert Throssel, Montana County Treasure's Association; Joe Mazurek, InsureRite.**

Opponents: **Barry "Spook" Stang, Montana Motor Carriers Association; Greg VanHoersen, State Farm Insurance; Jon Metropoulos, Farmers Insurance Group and National Association of Independent Insurers; Jacqueline Lenmark, American Insurance Association; Roger McGlenn, Independent Insurance Agents Association.**

Opening Statement by Sponsor:

Rep. Somerville said this bill is a concept that will solve an issue of uninsured motorists problem. He said about a quarter of drivers in Flathead County and in Montana are uninsured. This bill is a different approach to this problem, it is based on a

concept of the operation in Utah. In Utah, their uninsured motorists rate was 23% and now the percent of uninsured motorists is down to 8%.

Proponents' Testimony:

Dean Roberts said they have dealt with the uninsured motorists issue for a number of years. He said the estimate of uninsured motorists from 1992 to date is around 20-30%. This legislation focuses on the identity of the law breaker. The law states, in Montana, there has to be liability insurance on the vehicle. He handed out letters from Fonda Henson Workman and Edward Frohlich in support of HB 544.**EXHIBIT(trh39a03), EXHIBIT(trh39a04).**

{Tape : 2; Side : A; Approx. Time Counter : 5.6}

Brenda Nordlund explained an amendment they proposed. **EXHIBIT(trh39a05).** She said this bill is intended to identify those people that are not carrying insurance on their vehicle. She urges support of HB 544.

{Tape : 2; Side : A; Approx. Time Counter : 11.3}

Senator Steele said he is the chairman of Transportation, Public Health and Safety. He said the concept of merging databases from various different sources, and looking at the statistics from Utah, there are many more insurance policies written up. He said this Database works, and protects law abiding citizens.

Jan Van Riper said they support HB 544, this will help to reduce the number of uninsured motorists on the road and the cost to those law abiding people.

Robert Throssel said the Treasurers are in the position of collecting the one dollar fee as they collect the other fees. They support HB 544.

{Tape : 2; Side : A; Approx. Time Counter : 19.5}

Joe Mazurek said he appears here today on behalf of InsureRite, which is the company in Utah that operates the Utah Program. He said this is called the Uninsured Motorists Compliance Act and this identifies people that do not have insurance and then they can enforce the law they have. He handed out a letter from an audit of Uninsured Motorists Identification Database Program in Utah,**EXHIBIT(trh39a06)**, also a letter of support from the Department of Public Safety in Utah, **EXHIBIT(trh39a07)**,and a letter of support talking about the importance of this database in Utah for law enforcement, **EXHIBIT(trh39a08).**

Opponents' Testimony:

Barry "Spook" Stang said, as the bill is written, they oppose it, but if the amendments are passed that are handed out from the Department, excluding fleet vehicle registrations, they would support this bill.

Greg VanHoersen said State Farm Insurance opposes this bill, this appears to be a very expensive program and it does not appear, as of yet, that figures can support the position that the program from Utah is successful. He handed out a report from the Transportation Interim Committee from July 21, 1999, **EXHIBIT(trh39a09)**, also figures from Montana and Utah of uninsured motorists,**EXHIBIT(trh39a10)**, and a letter from the Insurance Industry Committee on Motor Vehicle Administration, **EXHIBIT(trh39a11)**, of an Uninsured Motorist Study.

{Tape : 2; Side : B; Approx. Time Counter : 0.3}

Jon Metropoulos said they oppose HB 544. He said this bill, as written, would require insurance companies to transfer their proprietary business information to another private company. He said his concern is that a contractor would suffer a penalty for knowingly disclosing or releasing that information. He said there is no provision in this act to prevent a contractor from using that information himself. He said he has suggested amendments he will bring in for the bill.

Jacqueline Lenmark said they oppose HB 544. She said the cost of this program for the State of Montana is a concern, this will raise the cost for companies in the market.

Roger McGlenn said they have been contacted by agents in Utah and they have mixed reports. **EXHIBIT(trh39a12)**. They oppose HB 544.

Questions from Committee Members and Responses:

{Tape : 2; Side : B; Approx. Time Counter : 13.3}

Rep. Price asked **Senator Steele** what the Governor of Utah's original objection was. **Senator Steele** said it was what the cost or burden of this would be. There was no mention of additional costs to an insurance company who wrote insurance costs for the State of Utah.

Rep. Balyeat said to **Senator Steele** that they have looked at two or three different ways this session to address the problem of uninsured motorists. He said this bill compares registered licensed vehicles to insurance records. He asked **Senator Steele**

if people cannot afford insurance, would they then not register their vehicles. **Senator Steele** said the reality of mandatory insurance, if passed by the legislature, is the law.

Rep. Gallik asked **Senator Steele**, in response to Mr. VanHoersen's experience with Utah statistics and Utah's experience, to explain his concerns on the issue. **Senator Steele** said with the acceptance of this program, they know, in Utah, who has a registered vehicle and if that vehicle has insurance.

Rep. Bookout-Reinicke asked **Dean Roberts** how many uninsured people have been injured in the State of Montana. **Dean Roberts** said, bodily injury coverage pays for the insurance drivers' legal liability for bodily injury caused to someone else through ownership, maintenance or use of a vehicle up to the policy limit specified.

{Tape : 2; Side : B; Approx. Time Counter : 29.4}

Closing by Sponsor:

Rep. Somerville said this is the time to look at this important issue, and to prosecute those individuals who are breaking the law by not having insurance on their vehicle. He said the program will have a one dollar fee attached to the license registration.

{Tape : 3; Side : A; Approx. Time Counter : 0.3}

HEARING ON HB 512

Sponsor: **Rep. Roger Somerville, HD 78.**

Proponents: **Eric Hummel, Attorney in Kalispell; Brenda Nordlund, Department of Justice; Colonel Bert Obert, Montana Highway Patrol; Charles Brooks, Yellowstone County;**

Opponents: **Mike Barrett, self.**

Informational Witnesses: **none.**

Opening Statement by Sponsor:

Rep. Somerville said this bill is a policy issue of what to do with an individual who refuses to submit to a blood/alcohol or

breath or urine test when requested to do so. He said this bill will provide an additional penalty which can be used to punish those individuals who decide to drink and drive. The statistics of accidents in Montana that involved alcohol are around 36%, and include 35 deaths last year in Montana.

Proponents' Testimony:

Eric Hummel said he prosecuted, in over 3 years, approximately 300 plus misdemeanors. The situation he encountered, for the repeat offenders, is that after the first DUI, they blow into the intoxilizer, and the Blood, Alcohol concentration is over .10, they realize that they do not have to submit to the tests. If an officer pulls someone over, and they refuse to submit to a blood test or a breath test, the Department of Justice Motor Vehicle Division can suspend the individuals' drivers license. The problem with this is, those people keep driving without a drivers license and they don't care that they are driving with a suspended drivers license. The intent of this bill is to penalize people criminally who refuse to submit to a breath test or a blood test. This bill would offer law enforcement officers and prosecutors an important tool in prosecuting drunk drivers. He said, on Line 13 of the bill, he would encourage to strike the word, "urine", because urine tests have been altered.

Brenda Nordlund said they would be asked to administer the driver's license suspensions that would be incident to this bill. She explained the number of the possible criminal refusals that they could be encountering in the next year. She said in 1999, 1410 individuals refused to submit to a chemical test upon being arrested for a DUI. There are relative numbers for refusals in Montana in the year 2000. There were 2728 DUI's for first offense, 902 DUI's as a second or subsequent offense, and 230 felony DUI's. These are strictly convictions for driving under the influence. She urges support of HB 512.

Colonel Bert Obert said they support HB 512. He said this bill gets law enforcement closer to the goal of stopping DUI's and stopping people from killing others when they are intoxicated. The Montana Highway Patrol arrested 2,275 DUI's in the year 2000. He said 550 of those people refused a test, which makes it difficult for prosecution to do their job.

Charles Brooks said in Minnesota they have cut their District Court cases by 30% by this type of legislation. He supports HB 512.

Opponents' Testimony:

Mike Barrett said he is not opposing the intent of control in regulations and procedure. **EXHIBIT(trh39a13).**

Questions from Committee Members and Responses:

{Tape : 3; Side : A; Approx. Time Counter : 22.6}

Rep. Smith asked **Mr. Hummel** how many DUI's had no drivers' license. **Mr. Hummel** said in his experience with the repeat DUI offenders, roughly a third.

Rep. Hedges asked **Mr. Hummel**, in this proposed legislation, if the 30% reduction in court cases is because they are sent directly to jail. **Mr. Hummel** said he thinks there would be a reduction in cases going to trial.

Rep. Gallik asked **Mr. Hummel** if there is still, in the State of Montana, the legal ability to have an open container of alcohol in a car. **Mr. Hummel** said his understanding is that municipalities are able to enact local ordinances prohibiting open containers. He said outside city limits in Montana, there is not an open container law.

Rep. Gallik asked **Colonel Obert** if it is mandatory for a person to take a breath test for alcohol, when they have recently consumed a heavy concentration of alcohol. **Colonel Obert** said there is a mandatory requirement for all stops, if alcohol related. He said before any chemical tests can be administered, a 15 minute deprivation period is required. During that 15 minute period, the alcohol is out of the mouth and into the individuals stomach at that point, so the blood alcohol test would not change after that period.

{Tape : 3; Side : B; Approx. Time Counter : 0.3}

Rep. Devlin asked **Colonel Obert** if a police officer can take a person to the police station under the suspicion of a DUI, and if they refuse to take the chemical tests, are they filmed. **Colonel Obert** said a person may refuse to take the tests, but the officer can take that person back to the station to do tests, which is an intoxilizer. The highway patrol has "in car" video cameras, so they have the initial appearance of the person and in the station they have a video also.

Rep. Juneau asked **Ms. Nordlund** if this law pertains to children under 18, who have a DUI. **Ms. Nordlund** said this law only applies to 61-8-402, they have to be arrested for the DUI or they can be arrested under 61-8-410 for underage driving, which includes those who are under the age of 21, may not operate a

motor vehicle with an alcohol concentration of in excess of .02 blood alcohol content.

Rep. Barrett asked **Colonel Obert** about the 15 minute deprivation period after a person consumes alcohol and if the police officers adhere to the 15 minutes by noting on the report what time the person was arrested, and what time the test was administered. **Colonel Obert** said yes, the officer waits for 15 minutes after they get to the police station.

Closing by Sponsor:

Rep. Somerville handed out a letter from **Joan S. Borneman, Office of the County Attorney of Anaconda-Deer Lodge County** supporting HB 512. **EXHIBIT(trh39a14)**. He said this is a bill that will help get people driving under the influence off the roads.

{Tape : 3; Side : B; Approx. Time Counter : 20.4}

EXECUTIVE ACTION ON HB 524

Motion: **REP. HEDGES** moved that **HB 524 DO PASS.**

Discussion:

Motion: **REP. GALLUS** moved that **AMENDMENT FOR HB 524, #HB 052401.ALK DO PASS.**

Leanne Kurtz explained the amendment for HB 524. **EXHIBIT(trh39a15).**

Motion/Vote: **REP. GALLUS** moved that **AMENDMENT #HB052401.ALK DO PASS. Motion carried 18-0.**

Motion/Vote: **REP. GALLUS** moved that **HB 524 DO PASS AS AMENDED. Motion carried 16-2 with Adams and Balyeat voting no.**

ADJOURNMENT

Adjournment: 6:30 P.M.

REP. ROGER SOMERVILLE, Chairman

DONNA HUFFMAN, Secretary

RS/DH

EXHIBIT(trh39aad)

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON TRANSPORTATION

Call to Order: By **CHAIRMAN ROGER SOMERVILLE**, on March 2, 2001 at 3:00 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Roger Somerville, Chairman (R)
Rep. Carol C. Juneau, Vice Chairman (D)
Rep. Darrel Adams (R)
Rep. Joe Balyeat (R)
Rep. Ronald Devlin (R)
Rep. Dave Gallik (D)
Rep. Steven Gallus (D)
Rep. George Golie (D)
Rep. Donald L. Hedges (R)
Rep. Jim Keane (D)
Rep. Gary Matthews (D)
Rep. William Price (R)
Rep. Allen Rome (R)
Rep. Frank Smith (D)
Rep. Donald Steinbeisser (R)
Rep. Karl Waitschies (R)

Members Excused: Rep. Sylvia Bookout-Reinicke, Vice Chairman (R)
Rep. Debby Barrett (R)

Members Absent: None.

Staff Present: Donna Huffman, Committee Secretary
Leanne Kurtz, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: none.
Executive Action: HB 544, 03/02/01.

EXECUTIVE ACTION ON HB 544

Motion: **REP. GALLUS** moved that **HB 544 DO PASS.**

Discussion:

{Tape : 1; Side : A; Approx. Time Counter : 8}

Rep. Balyeat said he is convinced this process will not be effective, he had information from the Office of Legislative Research and General Council from the State of Utah, which is a survey conducted in 1993. He said according to the survey, Utah only had 9% uninsured motorists in 1993, before they instituted the InsureRite Program. There are other documents, such as the Insurance Research Council and the Salt Lake Tribune, showing that Utah only had 9% uninsured motorists. After Utah has had this program in place, it is still no better than 9% with uninsured motorists.

Motion: **REP. SOMERVILLE** moved that **AMENDMENT FOR HB 544, #HB054401.ALK DO PASS.**

Leanne Kurtz explained amendment, **#HB054401.ALK. EXHIBIT(trh48a01).**

{Tape : 1; Side : A; Approx. Time Counter : 12.6}

Brenda Nordlund explained amendment 3, subsection(4), **#HB054401.ALK.**

Motion: **REP. GALLUS** moved to **SEGREGATE AMENDMENT #3 FROM #1 AND #2, #HB054401.ALK.**

Motion/Vote: **REP. GALLUS** moved that **AMENDMENT #1 AND #2, #HB054401.ALK DO PASS. Motion carried 15-1 with Balyeat voting no.**

Substitute Motion/Vote: **REP. GALLUS** made a substitute motion to **STRIKE SUBSECTION (4) FROM AMENDMENT AND VOTE ON AMENDMENT #3, SUBSECTION 3. DO PASS. Substitute motion carried 14-2 with Adams and Balyeat voting no.**

Motion: **REP. MATTHEWS** moved that **AMENDMENT #HB054401.ALK DO PASS.**

Rep. Matthews explained amendment, **#HB054401.ALK. EXHIBIT(trh48a02).**

{Tape : 1; Side : B; Approx. Time Counter : 3.4}

Motion/Vote: REP. MATTHEWS moved that **AMENDMENT #HB054402.ALK DO PASS. Motion carried 14-2 with Balyeat and Gallik voting no.**

Motion/Vote: REP. PRICE moved a **CONCEPTUAL AMENDMENT FOR HB 544, on PAGE 3, LINE 26, change from 3 MONTHS TO 2 CONSECUTIVE MONTHS. DO PASS. Motion carried 14-2 with Adams and Balyeat voting no.**

Motion/Vote: REP. DEVLIN moved that **HB 544 DO PASS AS AMENDED. Motion carried 12-6 with Adams, Balyeat, Barrett, Hedges, Juneau, and Rome voting no. EXHIBIT(trh48a03).**

ADJOURNMENT

Adjournment: 4:15 P.M.

REP. ROGER SOMERVILLE, Chairman

DONNA HUFFMAN, Secretary

RS/DH

EXHIBIT(trh48aad)

MINUTES

MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN MIKE TAYLOR**, on March 21, 2001 at 8:00 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Mike Taylor, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Edward Butcher (R)
Sen. Vicki Cocchiarella (D)
Sen. Sam Kitzenberg (R)
Sen. Glenn Roush (D)
Sen. Don Ryan (D)

Members Excused: Sen. Dale Berry (R)
Sen. Dale Mahlum (R)

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Kyanne Kelly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 333, 3/18/2001; HB 504, 3/18/2001; HB 544, 3/18/2001
Executive Action: HB 539; HB 504

HEARING ON HB 333

Sponsor: **REPRESENTATIVE LARRY JENT, HD 29 BOZEMAN**

Proponents:
Brian Wohlers, Representing himself
Rick Pyfer, Represents Injured Workers
Tom Murphy, Montana Trial Lawyers
Susan Good, Montana Orthopedic Society
Patti Keebler, AFL-CIO
John Flink, MHH
Al Smith, Montana Trial Lawyers Association

Opponents:
George Wood, Montana Self Insurers Association
Larry Jones, Liberty Northwest
Bob Worthington, MT Municipal Insurance Authority
Nancy Butler, State Fund
Jacqueline Lenmark, American Insurance Association
Ray Barnicot, MT Association of Counties
Dwight Easton, Farmers Insurance

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 1.8}

REPRESENTATIVE LARRY JENT, HD 29 BOZEMAN, said this act would require insurers to pay attorney's fees and costs when denial or termination of medical benefits are later determined compensable by the Workers' Compensation court.

Proponents' Testimony:

Brian Wohlers, Representing himself, said he was electrocuted on the job and his medical bills were not paid by the insurer and because of this he lost his home.

Rick Pyfer, Represents Injured Workers, said claimants don't understand the system and they need someone to help them, and it becomes a cumbersome economic problem for them.

Tom Murphy, Montana Trial Lawyers, said frequently people who have been injured can not find anyone to support their claim for medical care and can not find a lawyer who can look after their interests. He said this bill would make sure that the Comp insurers would pay for a debt that they owe.

Susan Good, Montana Orthopedic Society, said the physicians are providing excellent care at a very reasonable rate, and to make them pay the attorneys fees out of their fee is not fair.

Patti Keebler, AFL-CIO, said she supports this as a matter of simple justice.

John Flink, MHH, said that it is unfair that medical providers are asked to pay part of the attorney's fees.

Al Smith, Montana Trial Lawyers Association, said this is not creating any new rights, the one who wrongly made the denial of the benefit in the first place should be responsible for the payment.

Opponents' Testimony:

George Wood, Montana Self Insurers Association, said this benefits the attorneys, not the doctors, and any cost increase will be paid by Montana employers.

Larry Jones, Liberty Northwest, said this bill does not have the standard of wrongful denial, only that the insurer agreed to pay the benefits or not pay the benefits.

Bob Worthington, MT Municipal Insurance Authority, said this is a confusing bill and changes the standards.

Nancy Butler, State Fund, said this bill sets new standards for award of attorneys fees through medical than it does through indemnity or wage loss. She said currently insurers are only responsible for fees if they are found unreasonable.

Jacqueline Lenmark, American Insurance Association, said she opposed this bill for the reasons stated by previous witnesses.

Ray Barnicot, Montana Association of Counties, said he opposes the bill.

Dwight Easton, Farmers Insurance, said he opposes the bill.

Questions from Committee Members and Responses:

SENATOR MIKE SPRAGUE asked how much of an increase in the caseload there would be if this bill passed.

Nancy Butler, said she didn't know.

Closing by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 12.5}

REPRESENTATIVE LARRY JENT, HD 29 BOZEMAN, said attorneys get paid the same rate whether this bill passes or not, the question is who writes the check, it would come either from the doctors fee or from the insurance company who made the wrong decision in the first place.

EXECUTIVE ACTION ON HB 539

Motion: **SEN. SPRAGUE** moved that **AMENDMENTS TO HB539 #53905 BE ADOPTED.EXHIBIT(bus64a01)**

Discussion: **SENATOR DON RYAN** said that by setting into statute these rates they are saying they approve of the rates that are way too high. **SENATOR SPRAGUE** said that right now there is no control on the rates, this bill would put some restrictions on the business. **SENATOR BUTCHER** said this would equal 120% per year. **Bart Campbell** said 20-30% for 30 days is the same as in the Pawn business. **CHAIRMAN TAYLOR** said that after they are licensed it will be easier to have some control over the business.

Vote: **Motion carried unanimously.**

Motion: **SEN. SPRAGUE** moved that **HB 539 BE CONCURRED IN AS AMENDED.**

Discussion: **SENATOR BUTCHER** wanted to cut the rate back after 30 days. **SENATOR SPRAGUE** said that for every $100 they borrow it is $25, but these people can't go to the bank and get a loan at the lower rate, and they plan to do it for only 30 days. He said there is a real need for this service in certain circles of people.

Vote: **Motion carried 8-1 with Ryan voting no.**

HEARING ON HB 504

Sponsor: **REPRESENTATIVE DAVE GALLIK, HD 52, HELENA**

Proponents: **Jan VanRiper, State Auditor's Office**
Susan Witte, Blue Cross/ Blue Shield
Roger McGlenn, Independent Insurance Agents

Al Pontrelli, Insurance and Financial Advisors
Jaqueline Lenmark, American Insurance Association
Stuart Doggett, Land Title Association
Dwight Easton, Farmers Insurance
Mary Allen, Montana Benefits

Opponents: None

Opening Statement by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 3.1}

REPRESENTATIVE DAVE GALLIK, HD 52, HELENA, said this was the Insurance Commissioners housekeeping bill. He said they gave this to insurance groups, consumer groups and other groups affected by this bill and they worked out an agreeable bill.

Proponents' Testimony:

Jan VanRiper, State Auditor's Office, handed out an exhibit which was a plain language description of each of the sections.
EXHIBIT(bus64a02)

Susan Witte, Blue Cross/ Blue Shield, said she supports the bill.

Roger McGlenn, Independent Insurance Agents, said he supports the bill.

Al Pontrelli, Insurance and Financial Advisors, said he definitely favors this bill.

Jaqueline Lenmark, American Insurance Association, she said she supports the bill and was appreciative of the opportunity to review the bill ahead of time.

Stuart Doggett, Land Title Association, said he supports this bill.

Dwight Easton, Farmers Insurance, said he supports the bill.

Mary Allen, Montana Benefits, said she supports this bill.

Opponents' Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 16}

REPRESENTATIVE DAVE GALLIK, HD 52, HELENA, asked the committee to give unanimous support to the bill.

HEARING ON HB 544

Sponsor: **REPRESENTATIVE ROGER SOMERVILLE, HD 78, KALISPELL**

Proponents: **Dean Roberts, Motor Vehicle Division**
Jan VanRiper, State Auditors Office
Brenda Nordlund, Attorney General's Office
Vernon Lane, Representing himself
Dave Steele, State Senator from Utah
Joe Mazurek, Insure-Rite

Opponents: **Greg VanHorssen, State Farm**
Jon Metropoulous, Farmers Insurance Group
Briana Kerstein, Montana Peoples Action
Wendy Young, WEEL
Jacqueline Lenmark, American Insurance Association
Roger McGlenn, Independent Insurance Agents

Opening Statement by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 19.4}

REPRESENTATIVE ROGER SOMERVILLE, HD 78, KALISPELL, said this bill would strengthen the enforcement of mandatory motor vehicle liability insurance laws by creating the uninsured motorist identification program. He further stated that this bill would provide funding for this program by charging one dollar to people registering their vehicles.

Proponents' Testimony:

Dean Roberts, Motor Vehicle Division, said this bill would allow measurement of the magnitude of the uninsured motorist problem. He said it would take the Motor Vehicle Division data base on driver licensing and registration and marry it to the insurance industries book of business. He handed in two letters supporting this bill. **EXHIBIT(bus64a03)EXHIBIT(bus64a04)**

Jan VanRiper, State Auditors Office, said they support this bill and this is the best effort so far to deal with the uninsured motorists.

Brenda Nordlund, Attorney General's Office, said that in 1999 one out of eight convictions reported to the motor vehicle division involved no insurance.

Vernon Lane, Representing himself, said he thinks the bill doesn't go far enough, that uninsured motorists should simply have their drivers license taken away.

Dave Steele, State Senator from Utah, said this program has worked very well in Utah.

Joe Mazurek, Insure-Rite, said the one thing we don't do in this state is identify who does and who does not have insurance. He handed out some fact sheets and also audits from the Utah program.
EXHIBIT(bus64a05)EXHIBIT(bus64a06)EXHIBIT(bus64a07)EXHIBIT(bus64a08)EXHIBIT(bus64a09)EXHIBIT(bus64a10)

Opponents' Testimony:

Greg VanHorssen, State Farm, said they do not oppose the idea of doing something to solve the problem, but under this bill it wouldn't do much good. He handed out a report from the Utah Drivers License Division. **EXHIBIT(bus64a11)** He also handed out two reports from insurance companies.
EXHIBIT(bus64a12)EXHIBIT(bus64a13) He then handed out a map showing percent of uninsured motorists in each state.
EXHIBIT(bus64a14) And then handed in some proposed amendments.
EXHIBIT(bus64a15)

Jon Metropoulous, Farmers Insurance Group, said he sees uninsured motorists as a serious issue, but this program is very onerous for law abiding citizens and for insurance companies. He also had some proposed amendments. **EXHIBIT(bus64a16)** He said there are already laws on the books, but they are not enforced.

Briana Kerstein, Montana Peoples Action, said there is an unintended consequence to this bill for people who simply can't afford insurance. They could lose their car, they could lose their job and lose the money they have put into registering their car.

Wendy Young, WEEL, said the problem is not enforcement, it is money. They simply don't have the money to pay for insurance. She suggested that the solution would be to take the money and

help people to buy insurance rather than punish them for not being able to afford it.

Jacqueline Lenmark, American Insurance Association, said she opposed the bill, and handed out proposed amendments to the bill if it should need to be passed. **EXHIBIT(bus64a17)** She said this bill doesn't do anything to enhance enforcement.

Roger McGlenn, Independent Insurance Agents, said his major concern is the loss of markets in Montana. He was also concerned about mismatching, where a client gets notice that he hasn't insured the vehicle, when it is insured in a different way, like under a business name.

Questions from Committee Members and Responses:

SENATOR COCCHIARELLA asked how this would deal with people who seasonally license vehicles.

Brenda Nordlund said all you have to do is say this is a seasonal vehicle and that is it.

SENATOR SAM KITZENBERG said it seems that identifying them doesn't solve the problem so he asked how to solve the problem.

Greg Van Horssen said it would be by very strict enforcement of the penalties.

SENATOR DON RYAN asked why people are uninsured. He asked how many are scoff-laws and how many don't have the money.

REPRESENTATIVE SOMERVILLE said he doesn't have that information. He said it is a combination of things.

SENATOR MIKE SPRAGUE asked what would happen to people who come from out of state without insurance.

Jacqueline Lenmark said the tourist is not compelled to maintain insurance while in Montana. She suggested uninsured motorist insurance.

CHAIRMAN TAYLOR asked how the tribal governments would interact in this bill.

Brenda Nordlund said that if the vehicles are driven on state roads they are subject to the state law regarding mandatory insurance.

Closing by Sponsor:

{Tape : 4; Side : A; Approx. Time Counter : 1.6}

REPRESENTATIVE ROGER SOMERVILLE, HD 78, KALISPELL, encouraged the committee to resist the suggested amendments. He then handed in his testimony. **EXHIBIT(bus64a18)**

EXECUTIVE ACTION ON HB 504

Motion/Vote: SEN. RYAN moved that **HB 504 BE CONCURRED IN. Motion carried unanimously.**

ADJOURNMENT

Adjournment: 11:15 A.M.

SEN. MIKE TAYLOR, Chairman

KYANNE KELLY, Secretary

MT/KK

MINUTES

MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN MIKE TAYLOR**, on March 22, 2001 at 9:00 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:
Sen. Mike Taylor, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Edward Butcher (R)
Sen. Vicki Cocchiarella (D)
Sen. Sam Kitzenberg (R)
Sen. Glenn Roush (D)
Sen. Don Ryan (D)

Members Excused: Sen. Dale Berry (R)
Sen. Dale Mahlum (R)

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Kyanne Kelly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing(s) & Date(s) Posted:
Executive Action: HB 333; HB 463; HB 497; HB 544; HB 574; HB 596

EXECUTIVE ACTION ON HB 333

Motion/Vote: **SEN. ED BUTCHER** moved that **HB 333 BE TABLED. Motion carried 5-4 with Cocchiarella, Kitzenberg, Roush, and Ryan voting no.**

EXECUTIVE ACTION ON HB 463

Motion: **SEN. DON RYAN** moved that **AMENDMENT #01.adb TO HB 463 BE ADOPTED.**

Discussion: **Bart Campbell** said this amendment would require the Department to report to the next legislature the number of people who applied for unemployment insurance under this bill,and the amount paid. It also gives a termination date of July 1, 2003.

Vote: **Motion carried unanimously.**

Motion: **SEN. MIKE TAYLOR** moved conceptual **AMENDMENT TO HB 463 BE ADOPTED.EXHIBIT(bus65a01)**

Discussion: **SENATOR TAYLOR** said he wanted the total number of weeks of benefits to be 10 weeks. **SENATOR VICKI COCCHIARELLA** said that if they are unemployed for any other reason, then this cap would not apply. **SENATOR MIKE SPRAGUE** asked how they would know this was true. **Bart Campbell** said that in order to qualify for this benefit you have to meet certain criteria.

Vote: **Motion carried 8-1 with Cocchiarella voting no.**

Motion: **SEN. COCCHIARELLA** moved that **HB 463 BE CONCURRED IN AS AMENDED.**

Discussion: **SENATOR RYAN** wanted to make sure this would not raise the rate to the employer. **SENATOR TAYLOR** said that this would not raise the rates to employers. He said he didn't like the idea of using this as a means of funding for this problem, but he couldn't see any other way to do it.

Vote: **Motion carried 8-1 with Sprague voting no.**

EXECUTIVE ACTION ON HB 497

Motion: **SEN. TAYLOR** moved that **HB 497 BE CONCURRED IN.**

Discussion: **SENATOR COCCHIARELLA** said that by putting this bill into law it would change the industry standard. She said she has received many letters against this bill. She said there would be a lot of people out there working 1 to 1 and it would not be safe, and Work Comp rates would probably go up. She said this doesn't create jobs, it only makes it good for people who already

cheat the system. **SENATOR BUTCHER** said this is a clear cut fight between unions and non-unions. **SENATOR RYAN** said that this would lay off the journeymen and put to work the unskilled workers. **SENATOR GLENN ROUSH** said this is not a union/non-union fight. **SENATOR COCCHIARELLA** said this is a good employer, not good employer issue.

Vote: Motion carried 5-4 with Cocchiarella, Kitzenberg, Roush, and Ryan voting no.

EXECUTIVE ACTION ON HB 544

Motion: SEN. RYAN moved **HB 544 BE NOT CONCURRED IN.**

Discussion: SENATOR RYAN said there are problems about people not having insurance but the way this is written would be invasive to all Montanans. He also said that there are technical problems so that this bill would not do what it purports to do. He then said it does not insure one more person, it puts money into a company outside of the state and takes money out of Montana.

Vote: Motion carried 5-4 with Berry, Kitzenberg, Mahlum, and Taylor voting no.

Motion/Vote: SEN. TAYLOR moved that **HB 544 BE TABLED. Motion carried 5-4 with Berry, Kitzenberg, Mahlum, and Taylor voting no.**

EXECUTIVE ACTION ON HB 574

Motion: SEN. TAYLOR moved **HB 574 BE NOT CONCURRED IN.**

Discussion: SENATOR BUTCHER said this was an infringement on peoples' rights, and they should not have to register the deeds if they didn't want to.

Vote: Motion carried 6-3 with Cocchiarella, Roush, and Ryan voting no.

Motion/Vote: SEN. TAYLOR moved that **HB 574 BE TABLED. Motion carried 6-3 with Cocchiarella, Roush, and Ryan voting no.**

EXECUTIVE ACTION ON HB 596

Motion: **SEN. RYAN** moved that **AMENDMENT # 59602 TO HB 596 BE ADOPTED. EXHIBIT(bus65a02)**

Discussion: **SENATOR RYAN** said the amendment would bring it down from 6500 yards to 3500 yards and includes that the golf course would need to have a club house and a driving range. **SENATOR TAYLOR** said he has to resist the amendment because the wine, beer and liquor people would not approve it because the bill comes with an agreement. **SENATOR RYAN** said this is legitimate in Great Falls. **SENATOR COCCHIARELLA** said she would support the amendment. **SENATOR SPRAGUE** told **SENATOR RYAN** he has to wait his turn to get his pork.

Vote: **Motion failed 3-6 with Butcher, Cocchiarella, and Ryan voting aye.**

Motion: **SEN. TAYLOR** moved that **AMENDMENT #HB059601 TO HB 596 BE ADOPTED. EXHIBIT(bus65a03)**

Discussion: **Bart Campbell** said this amendment reflects what is already going on, they are allowing someone to come onto the golf course and run that part of the facility.

Vote: **Motion carried unanimously.**

Motion/Vote: **SEN. TAYLOR** moved that **HB 596 BE CONCURRED IN AS AMENDED. Motion passed 8-1 with Cocchiarella voting no.**

ADJOURNMENT

Adjournment: 9:50 A.M.

SEN. MIKE TAYLOR, Chairman

KYANNE KELLY, Secretary

MT/KK

EXHIBIT(bus65aad)

SENATE JOURNAL
57TH LEGISLATURE
EIGHTIETH LEGISLATIVE DAY

Helena, Montana
April 9, 2001

Senate Chambers
State Capitol

Senate convened at 11:00 a.m. President Beck presiding. Invocation by Reverend Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senators Harrington, Holden, Kitzenberg, Stapleton and Stonington, excused. Quorum present.

Mr. President: We, your committee on Bills and Journal, having examined the daily journal for the seventy-fifth legislative day, find the same to be correct.

Miller, Chairman

Senator Stonington present at this time.

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL (Miller, Chairman): 4/9/2001

Correctly printed: SJR 20, SJR 21, HB 577, HB 610.

Correctly engrossed: HB 5, HB 273, HB 395, HB 516, HB 600, HB 619, HB 623, HB 625, HB 637, HB 642, HB 643, HB 644, HB 645, HB 646, HJR 2.

Correctly enrolled: SB 396, SB 466, SB 469, SB 473, SB 474, SB 476, SB 477, SB 491, SJR 2, SJR 10, SJR 12.

Correctly enrolled: SB 187, SB 190, SB 248, SB 325, SB 329, SB 333, SB 338, SB 355, SB 379, SB 408, SB 451, SB 454, SB 493, SB 511, SR 22.

Examined by the sponsor and found to be correct: SB 169, SB 171, SB 181, SB 218, SB 236, SB 237, SB 253, SB 261, SB 265, SB 286, SB 288, SB 293, SB 298, SB 304, SB 309, SB 310, SB 311, SB 318, SB 319, SB 328, SB 330, SB 354, SB 356, SB 359, SB 375, SB 377, SB 378, SB 397, SB 405, SB 420, SB 426, SB 431, SB 433, SB 436, SB 438, SB 442, SB 443, SB 448, SB 449, SB 450, SB 455, SB 459, SB 465, SB 480, SJR 6, SJR 8, SJR 10.

Signed by the Speaker at 3:30 p.m., April 9, 2001: SB 3, SB 50, SB 51, SB 60, SB 77, SB 82, SB 96, SB 104, SB 130, SB 132, SB 138, SB 152, SB 167, SB 170, SB 197, SB 203, SB 204, SB 210, SB 221, SB 229, SB 241, SB 289, SB 305, SB 313, SB 340, SB 358, SB 360, SB 373, SJR 13.

LEGISLATIVE ADMINISTRATION (Grimes, Chairman): 4/9/2001

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 12 noon , Saturday, April 7, 2001:

TITLE	NAME
Pages:	Andrea Jones, Lincoln, MT
	John Malia, Hysham, MT
	Erin Andersen, Deer Lodge, MT
	Patti Anderson, Deer Lodge
	Katie Tiskus, Polson, MT
	Nik Grosfield, Big Timber, MT
	Loren Burmeister, Big Timber, MT
	Kristin Robinson, Helena, MT

For the House:

C. Younkin, Vice Chairman
Mood
Gutsche (Unsigned)

For the Senate:

Crismore, Chairman
Roush
Thomas

MOTIONS

SB 327 - Majority Leader Thomas moved that the Conference Committee on **SB 327** be **dissolved** and that the President be authorized to appoint a **Free Conference Committee**, and request the House to appoint a like committee to meet on **SB 327.** Motion carried. The President appointed the following members:

Senator Taylor, Chairman
Senator Stapleton
Senator Doherty

HB 543 - Majority Leader Thomas moved that the Conference Committee on **HB 543** be **dissolved** and that the President be authorized to appoint a **Free Conference Committee** to meet with a like committee from the House on **HB 543.** Motion carried. The President appointed the following members:

Senator Crismore, Chairman
Senator Tash
Senator McCarthy

HB 544 - Majority Leader Thomas moved that **HB 544** be taken from the committee on Business and Labor, printed and placed on second reading on the eighty-first legislative day. Motion carried as follows:

Yeas: Berry, Bishop, Bohlinger, Cobb, Cole, Crismore, DePratu, Ekegren, Ellingson, Elliott, Ellis, Franklin, Grimes, Grosfield, Halligan, Hargrove, Harrington, Johnson, Keenan, Mahlum, McCarthy, McNutt, Mohl, Pease, Shea, Stapleton, Taylor, Tester, Thomas, Toole, Waterman, Wells, Zook, Mr. President.
Total 34

Nays: Butcher, Christiaens, Cocchiarella, Doherty, Glaser, Jergeson, Kitzenberg, Miller, Nelson, O'Neil, Roush, Ryan, Sprague, Stonington, Tash.
Total 15

Absent or not voting: None.
Total 0

Excused: Holden.
Total 1

HB 617 - Senator Stapleton moved that **HB 617** be taken from the table in the committee on Taxation, printed and placed on second reading on the eighty-first legislative day. Motion **failed** as follows:

Yeas: Berry, Butcher, Cocchiarella, Crismore, Glaser, Hargrove, Johnson, Keenan, Mahlum, Miller, Mohl, O'Neil, Sprague, Stapleton, Taylor, Wells.
Total 16

SENATE JOURNAL
57TH LEGISLATURE
EIGHTY-FIRST LEGISLATIVE DAY

Helena, Montana
April 10, 2001

Senate Chambers
State Capitol

Senate convened at 10:00 a.m. President Beck presiding. Invocation by Reverend Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

Mr. President: We, your committee on Bills and Journal, having examined the daily journal for the seventy-sixth legislative day, find the same to be correct.

Miller, Chairman

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL (Miller, Chairman): 4/10/2001

Examined by the sponsor and found to be correct: SB 187, SB 190, SB 245, SB 248, SB 324, SB 325, SB 329, SB 333, SB 338, SB 355, SB 379, SB 396, SB 408, SB 451, SB 454, SB 466, SB 469, SB 473, SB 474, SB 476, SB 477, SB 491, SB 493, SB 511, SJR 2, SJR 12, SJR 16, SJR 22.

Signed by the Speaker at 3:35 p.m., April 9, 2001: SB 128, SB 147, SB 226, SB 428, SB 479, SJR 18.

Signed by the Speaker at 3:45 p.m., April 9, 2001: SB 89, SB 108, SB 116, SB 182, SB 256, SB 262, SB 274, SB 282, SJR 17.

Signed by the Speaker at 7:30 a.m., April 10, 2001: SB 300, SB 323, SB 357.

Signed by the President at 11:00 a.m., April 10, 2001: SB 169, SB 171, SB 181, SB 218, SB 236, SB 237, SB 253, SB 261, SB 265, SB 286, SB 288, SB 293, SB 298, SB 304, SB 309, SB 310, SB 311, SB 318, SB 319, SB 328, SB 330, SB 354, SB 356, SB 359, SB 375, SB 377, SB 378, SB 397, SB 405, SB 420, SB 426, SB 431, SB 433, SB 436, SB 438, SB 442, SB 443, SB 448, SB 449, SB 450, SB 455, SB 459, SB 465, SB 480, SJR 6, SJR 8, SJR 10.

REPORTS OF SELECT COMMITTEES

CONFERENCE COMMITTEE
on House Amendments to **Senate Bill 283**
Report No. 1, April 9, 2001

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 283** (reference copy – salmon) and recommend this Conference Committee report be adopted.

And, recommend that **Senate Bill 283** (reference copy – salmon) be amended as follows:

1. Page 8, line 9.
Following: "~~any~~"
Insert: "pertinent"

2. Page 9, line 3 through line 7.
Following: "children." on line 3
Strike: remainder of line 3 through "RESULTS." on line 7

and recommend this Conference Committee report be adopted.

And, recommend that House amendments to **Senate Bill 432** (reference copy – salmon) be accepted by the Senate.

For the Senate:

Stapleton, Chairman
Harrington
Taylor

For the House:

McKenney, Vice Chairman
Whitaker
Mangan

CONFERENCE COMMITTEE
on Senate Amendments to **House Bill 266**
Report No. 1, April 10, 2001

Mr. Speaker and Mr. President:

We, your Conference Committee **on House Bill 266** met April 10, 2001, and considered:

1. Senate Committee on Judiciary amendments to the third reading copy, dated March 16, 2001.

We recommend that **House Bill 266** (reference copy – salmon) be amended as follows:

1. Page 1, line 28.
Following: line 27
Insert: "(3) An applicant may contest a written statement of legal authority in district court. The prevailing party must be awarded costs and attorney fees incurred in a contest or defense under this section."

For the House:

Shockley, Vice Chairman
P. Clark
Clancy

For the Senate:

K. Miller, Chairman
Kitzenberg
Stonington (Unsigned)

FIRST READING AND COMMITMENT OF BILLS

The following Senate resolution was introduced, read first time, and referred to committee:

SJR 22, introduced by Christiaens, Bohlinger, Elliott, Glaser, Hargrove, Harrington, Mahlum, McCarthy, Nelson, Stonington, F. Thomas, Toole, Waterman (by request of the Senate Local Government Standing Committee), referred to Local Government.

MOTIONS

HB 544 - Senator Ryan moved that **HB 544** be taken from second reading and rereferred to the committee on Business. Motion passed as follows:

Yeas: Butcher, Christiaens, Cobb, Cocchiarella, Cole, Crismore, Doherty, Elliott, Ellis, Franklin, Glaser, Grosfield, Halligan, Harrington, Holden, Jergeson, Johnson, Kitzenberg, McCarthy, McNutt, Miller, Nelson, Pease, Roush, Ryan,

Shea, Stonington, Tash, Taylor, Tester, Toole, Waterman, Zook, Mr. President.
Total 34

Nays: Berry, Bishop, Bohlinger, DePratu, Ekegren, Ellingson, Hargrove, Keenan, Mohl, O'Neil, Sprague, Stapleton, Thomas.
Total 13

Absent or not voting: Mahlum, Wells.
Total 2

Excused: Grimes.
Total 1

SB 57 - Majority Leader Thomas moved the President be authorized to appoint a **Conference Committee**, and request the House to appoint a like committee to confer on House Amendments to **SB 57**. Motion carried. The President appointed the following members:

Senator Stapleton, Chairman
Senator Johnson
Senator Nelson

SB 514 - Majority Leader Thomas moved the President be authorized to appoint a **Conference Committee**, and request the House to appoint a like committee to confer on House Amendments to **SB 514.** Motion carried. The President appointed the following members:

Senator Berry, Chairman
Senator Grosfield
Senator Cocchiarella

HB 146 - Majority Leader Thomas moved that the **Conference Committee** on **HB 146** be **dissolved** and that the President be authorized to appoint a **Free Conference Committee** to meet with a like committee from the House on **HB 146.** Motion carried. The President appointed the following members:

Senator Grimes, Chairman
Senator McNutt
Senator Halligan

SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)

Session II

Senator Berry moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator DePratu in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows: